

DEPARTMENT OF EDUCATION
SPECIAL EDUCATION PROGRAMS
Children's Home Society- Sioux Falls and Rapid City
Accountability Review - Monitoring Report 2010-2011

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Date of On Site Visit: July 7, 2011 Sioux Falls

Team Members: Donna Huber and Chris Sargent, Education Specialists; Ann Larsen, Special Education Programs Director; and Angie Boddicker and Melissa Flor, Special Education Programs

Date of On Site Visit: July 14, 2011 Rapid City

Date of Report: August 25, 2011

Closed:

Program monitoring and evaluation.

In conjunction with its general supervisory responsibility under the Individuals with Disabilities Education Act, Part B, Special Education Programs (SEP) of the Office of Educational Services and Support shall monitor agencies, institutions, and organizations responsible for carrying out special education programs in the state, including any obligations imposed on those agencies, institutions, and organizations. The department shall ensure:

- (1) That the requirements of this article are carried out;
- (2) That each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency, but not including elementary schools and secondary schools for Native American children operated or funded by the Secretary of the Interior:
 - (a) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the department; and
 - (b) Meets the educational standards of the state education agency, including the requirements of this article; and
- (3) In carrying out this article with respect to homeless children, the requirements of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2007, are met. (Reference- ARSD 24:05:20:18.)

State monitoring--Quantifiable indicators and priority areas.

The department shall monitor school districts using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

- (1) Provision of Free Appropriate Public Education (FAPE) in the least restrictive environment;
 - (2) Department exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in this article and article 24:14; and
 - (3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. (Reference-ARSD 24:05:20:18:02.)
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State enforcement -- Determinations.

On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA...

Based upon the information obtained through monitoring visits, and any other public information made available, Special Education Programs of the Office of Educational Services and Support determines if the agency, institution, or organization responsible for carrying out special education programs in the state:

- Meets the requirements and purposes of Part B of the Act;
- Needs assistance in implementing the requirements of Part B of the Act'
- Needs intervention in implementing the requirements of Part B of the Act; or
- Needs substantial intervention in implementing the requirements of Part B of the Act. (Reference-ARSD 24:05:20:23.04.)

Deficiency correction procedures.

The department shall require local education agencies to correct deficiencies in program operations that are identified through monitoring as soon as possible, but not later than one year from written identification of the deficiency. The department shall order agencies to take corrective actions and to submit a plan for achieving and documenting full compliance. (Reference-ARSD 24:05:20:20.)

1) GENERAL SUPERVISION

ARSD24:05:27:23. Criteria for occupational therapy. A student may be identified as in need of occupational therapy as a related service if:

- (1) The student has a disability and requires special education;
- (2) The student needs occupational therapy to benefit from special education; and
- (3) The student demonstrates performance on a standardized assessment instrument that falls at least 1.5 standard deviations below the mean in one or more of the following areas: fine motor skills, sensory integration, and visual motor skills.

Sioux Falls: July 7, 2011

When reviewing SIMS data, the monitoring team determined a disproportionate amount of students at Sioux Falls Children’s Home Society receive the related service of Occupational Therapy. Thirty-one percent of the students receiving special education services were also receiving the related service of Occupational Therapy. Of the files reviewed, the monitoring team determined two files in which the student was receiving Occupational Therapy services, but evaluation scores in the file did not support the need for such. Skill based assessment did not consistently link to the goals which were addressed by OT and related to the student’s “alert level to match the environment.”

Through interview with staff, the monitoring team determined as part of the intake process the agency is required to conduct an evaluation for recreation as part of a Joint Commission requirement which is required for residential placement and not as part of the educational evaluation. Sioux Falls utilizes contracted Occupational Therapists to conduct this evaluation which has resulted in students receiving services which may be equally well provided by the special education teachers within the classroom and/or students did not meet the prongs of eligibility listed in ARSD24:05:27:23.

The agency needs to consider the above criteria, especially criteria two, as part of the decision making process during the IEP/eligibility meeting prior to providing a related service.

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: Sioux Falls <ol style="list-style-type: none"> 1) Training will be provided to CHS –Sioux Falls staff in the area of providing related services only to students whose evaluation scores and skill based assessments support the need for such services and determining what staff is needed to implement the goals if the evaluation results support eligibility for the related service of OT. 2) CHS will develop a process in which to address when a related service area is needed to be evaluated 3) CHS Sioux Falls will review the files of <u>all</u> students receiving OT services and do the following: <ol style="list-style-type: none"> a) Reevaluate each student to determine eligibility for the related services, including skill based. 			

- (2) Resource rooms;
- (3) Self-contained programs;
- (4) Separate day school programs;
- (5) Residential school programs;
- (6) Home and hospital programs; and
- (7) Other settings.

For each of the programs listed in this section, the IEP team shall determine the extent to which related services are required in order for the child to benefit from the program.

Sioux Falls: July 7, 2011

Through file review the monitoring team determined CHS Sioux Falls currently has two areas of concerns in the area of IEP content. These include skill based strengths and needs on the Present Level of Academic Achievement and Functional Performance (PLAAFP) and the areas that address Least Restrictive Environment (Continuum of Placement, Description of Services and Justification for Placement).

Through file review the monitoring team determined in nine files the strengths and needs identified in the PLAAFP were not skill specific. This may be the result of agency's evaluation process in which skill based assessments were not conducted, in the areas of behavior, academic, speech and language. For example, in file 1 the student is eligible under the disability category of 550, but the only needs identified on the PLAAFP indicate needs in the areas of Grammar, Expressive Language, Expressive Vocabulary and Oral Narration. Such broad based skills do not assist the IEP team in developing an IEP to provide benefit for the student's disability.

Concerns in the area of addressing Least Restrictive Environment:

- 1) In the area of addressing the Least Restrictive Environment, the agency was not addressing the continuum correctly. Most children were placed in the continuum of either "separate day school" or "residential" placement, but CHS provides services for both students with disabilities and students without disabilities. Also during teacher interview it was determined most services are provided in their general classroom setting with non-disabled students. Therefore, the two placement options of "separate day school" and "residential" did not reflect the correct continuum.
- 2) There were primarily two concerns with the description of services in almost half of the files. These included not correctly identifying the location of services or not breaking out the special education services.
- 3) There were three concerns in the area of justification for placement. First, because the continuum of placement was not correct, the justification statements were also not addressed correctly. Second, sometimes the team did not address the entire reject/accept process of the continuum. And third, sometimes the IEP team simply indicated "Student was placed at CHS by the South Dakota Department of Social Services" which does not address any part of the justification process.

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: Sioux Falls <ol style="list-style-type: none"> 1) Training will be provided for CHS staff in the area of IEP content. 2) CHS staff will correctly complete all content of the IEP Data Collection: <ol style="list-style-type: none"> 1) CHS will report the following: <ol style="list-style-type: none"> a) Date of training b) Presenter/s and the names and positions of staff attending the training 	1)September 30, 2011	Special Education Director	

2) Each special education/speech therapist will submit 1 IEP which correctly addresses: a) Skill based PLAAFP which aligns with a skill based report (submit both if an evaluation/reevaluation) b) Continuum of placement c) Description of services and d) Justification placement	2) December 20,2011	Special Education Director and staff	
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Progress Report:

Rapid City: July 14, 2011

Through file review at CHS-Rapid City, the monitoring team determined the two areas of concern in the IEP process were the justification statement and the continuum of placement. CHS-Rapid City addressed the continuum of placement exactly the same as CHS-Sioux Falls and the justification of placement concerns reflected the same as CHS-Sioux Falls.

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: Rapid City 1) Technical assistance was provided for CHS staff in the area of IEP content during file review. 2) CHS staff will correctly complete all content of the IEP Data Collection: 1) Technical assistance was provided for CHS staff in the area of IEP content during file review 2) Each special education/speech therapist will submit 1 IEP which correctly addresses: e) Skill based PLAAFP which aligns with a skill based report (submit both if an evaluation/reevaluation) f) Continuum of placement g) Description of services and h) Justification placement	1)Completed 2)July 20, 2012	Special Education Director and staff	

3. GENERAL SUPERVISION

ARSD24:05:29:18. Notice to parents. The department shall give notice that fully informs parents about the requirements under this chapter, including the following:

- (1) A description of the extent to which the notice is given in the native languages of the various population groups in the state;
 - (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information, including sources from whom information is gathered, and the uses to be made of the information;
 - (3) A summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
 - (4) A description of all the rights of parents and children regarding this information, including the rights under 34 C.F.R. Part 99, Family Educational Rights and Privacy Act, as amended to January 8, 2009.
- Before any major identification, location, or evaluation activity, the notice shall be published or announced in newspapers or other media, or both, with circulation adequate to notify parents

Sioux Falls: July 7, 2011

The monitoring team did not consistently find prior notices in the files indicating CHS-Sioux Falls had notified the parent/guardian that CHS had reviewed and accepted the IEP as written and that the evaluation reports CHS had received supported the student's eligibility when a student was placed by SDDSS. There was also an absence of Prior Notices in the files indicating CHS was setting up a meeting to amend the IEP.

[illegible]

ARSD 24:05:30:04. Prior notice. Written notice which meets the requirements of § 24:05:30:05 must be given to the parents five days before the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child. The five-day notice requirement may be waived by the parents.

Rapid City: July 14, 2011

During file reviews of CHS-Rapid City files, the monitoring team could not consistently find Prior Notices for addendum meeting in student files. The Prior Notice for meetings did not have all federally required content.

Corrective Action: Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
Activity/Procedure: <ol style="list-style-type: none"> 1) TA was provided to CHS staff in the area of prior notices 2) CHS Rapid City will use Prior Notices that contain all federally required language 3) CHS special education assistant director will submit at least 1 Prior Notice for each of the following : <ol style="list-style-type: none"> a) Addendum meeting b) Notifying parents that CHS can implement the IEP as written c) Notifying parents that the evaluation reports CHS has received from the school district, etc. supports the disability category Data Collection:			

1) TA was provided to CHS staff in the area of prior notices	1)Completed	Special Education Director and staff	
2) CHS Rapid City will submit a copy of the Prior Notice they have adopted that contain all federally required language	2)September 30, 2011		
3) CHS special education assistant director will submit at least 1 Prior Notice for each of the following : a) Addendum meeting b) Notifying parents that CHS can implement the IEP as written c) Notifying parents that the evaluation reports CHS has received from the school district, etc. supports the disability category	3)July 20,1012		

Progress Report:

4. GENERAL SUPERVISION

Finding:

ARSD24:05:30:15. Surrogate parents.

Each school district shall establish procedures for the assignment of a surrogate parent to ensure that the rights of a child are protected if no parent, as defined in § 24:05:13:04, can be identified and the district, after reasonable effort, cannot locate a parent or if the child is a ward of the state or the child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2009. The surrogate parent may represent the student in all matters relating to the identification, evaluation, educational placement, and provision of FAPE to the students.

SD Surrogate Parent Manual also states: A surrogate parent, who has participated in surrogate parent training and follow-up sessions, is responsible for representing the child when decisions about his/her special education program are made concerning: Represent the student with disabilities in all education decision-making.

Grant or deny permission for initial evaluation or placement based upon the child's individual needs.

Identification of the need for the child to receive special education services

Participate in the design of the child's individualized education program, including placement

Ongoing reviews of educational progress

When necessary, initiate mediation, complaints, resolution session, and due process hearings.

Sioux Falls July 7, 2011

Through file review, the monitoring team determined CHS Sioux Falls is not using their surrogate parent with the intent described above: "...the rights of a child are protected if no parent, as defined in § 24:05:13:04, can be identified and the district, after reasonable effort cannot locate a parent or if the child is a ward of the state". In two files (5 and 15) a surrogate parent signed consent for evaluation but then in the eligibility/IEP meeting this surrogate parent was not present. Through interview it was determined that it is CHS's practice to have one surrogate parent sign for consent for evaluation, but then that is the extent of their duty. An individual called a "Big Buddy" attends the IEP meeting. This process was set up to expedite the intake process.

Rapid City: July 14, 2011

Through file review, the monitoring team determined CHS-Rapid City's method of appointing a surrogate is only slightly different than Sioux Falls' process. In order to expedite the initial intake and/or evaluation process, CHS-Rapid City uses a volunteer surrogate who comes in once or twice a week to sign consents initially but then once a surrogate is assigned to a child, that surrogate follows the same child.

Corrective Action: Document the specific activities and procedures	Timeline for	Person(s)	(SEP Use Only)
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that will be implemented and the data/criteria that will be used to verify compliance.	Completion	Responsible	Date Met
<p>Activity/Procedure: CHS-Sioux Falls and CHS Rapid City</p> <ul style="list-style-type: none"> 1) CHS will revise their practice of assigning a surrogate parent 2) CHS will follow that policy <p>Data Collection:</p> <ul style="list-style-type: none"> 1) CHS will submit the policy describing the above practice of assigning a surrogate parent 2) CHS will submit 1 student file in which the agency used a surrogate parent in which evaluation was conducted and an IEP and eligibility determination was held, including the Prior Notices for each, the eligibility document, and the IEP. 	<p>1)September 30,2011</p> <p>2)July 20,2012</p>	<p>Special Education Directors</p>	

Progress Report: